

**JAN 19 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DONTE LAMONT JOHNSON,

Defendant - Appellant.

No. 03-50242

D.C. No. CR-02-00942-GAF-1

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Gary A. Feess, District Judge, Presiding

Submitted January 9, 2006<sup>\*\*</sup>

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Donte Lamont Johnson appeals his 188-month sentence imposed following a guilty-plea conviction for conspiracy to possess cocaine base, in violation of 21 U.S.C. § 846. We have jurisdiction pursuant to 28 U.S.C. § 1291.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc).<sup>1</sup> We deny appellant's motion to vacate his sentence, as he has failed to demonstrate plain error. *See id.* at 1079.

**REMANDED.**

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<sup>1</sup> All outstanding motions are denied as moot.